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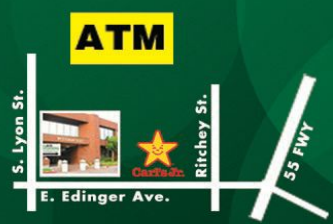

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Times are tough all over, so thank God there's a medicine for that called medical marijuana. Problem is, times are even tougher for medical-marijuana patients—and especially for the folks who supply those meds. It has been 15 years since California voters overwhelmingly passed Proposition 215, the so-called Compassionate Use Act, and finally, or so it seems, the conflict between state and federal law is reaching a crescendo. Joe Byron and Joe Grumbine, who operated a pair of cannabis collectives in Long Beach, were recently convicted in state court of selling pot, despite doing what dozens of other dispensary operators were doing. Meanwhile, federal drug agents just wrapped up a massive sweep in Costa Mesa, raiding several dispensaries, confiscating cash and weed, and arresting various employees. Just how bad does the future look for medical marijuana? We put that question to our Little Buddy, who has the 411 on the 420. And, as always, we have the very latest, most comprehensive listings—they do tend to change quite a bit these days, don't they?—of various providers of medical-marijuana goods and services at www.ocweekly.com/directory/marijuana-dispensaries and www.ocweekly.com/microsites/marijuana-delivery.

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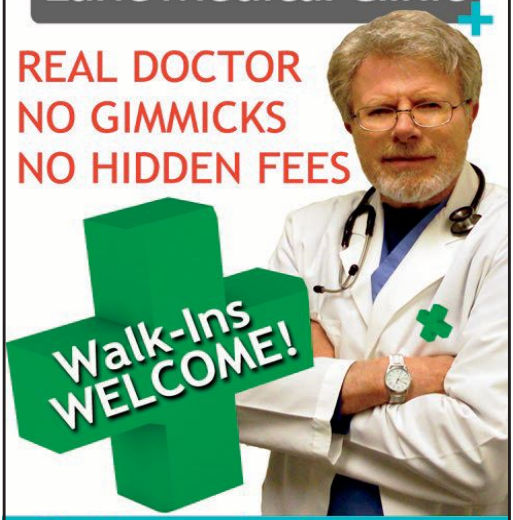

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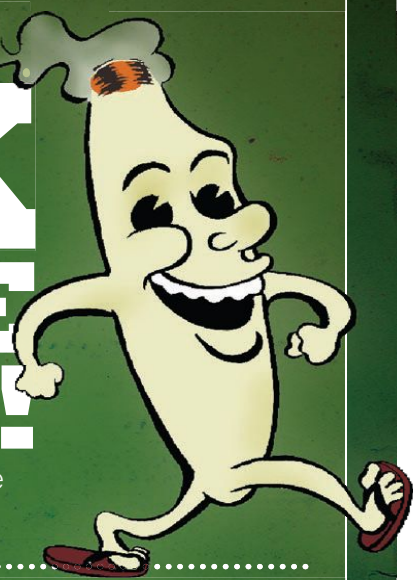


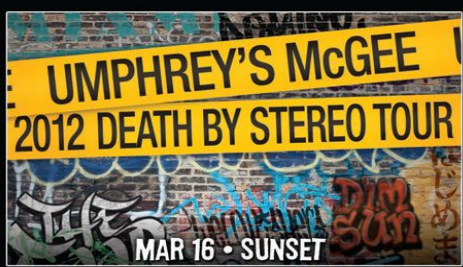
Your sinsemillan friend is back to tackle even more THC technicalities

DEAR LITTLE BUDDY: I medicate within the state, as allowed by the Compassionate Use Act (CUA). What concerns me is that there's a company I want to work for that requires all applicants to submit to a pre-employment drug screening and, if hired, periodic drug tests. I need my medicine, but I need this job, too! If I test positive, will my status as a medpot patient protect me from being discriminated against? If it won't, is there anything I can do to mask my medicine?

With anticipation, Alice B. Tokelass

ALICE: I wish I had better news for you, but the simple, hard truth is that while the CUA protects you from criminal prosecution for using your medicine, it doesn't protect you from job discrimination. Mark Leno, the Democratic state senator from San Francisco, has introduced Senate Bill 129, which would prohibit employers from discriminating against workers who test positive for marijuana that was consumed outside the workplace, but activists are still in the early stages of gathering support from other legislators. So for now, as Joe Elford, chief counsel to Americans for Safe Access, told CNBC in 2010, employers have "carte blanche" to "discriminate against medical-marijuana patients."

Elford was referring to the decision the California Supreme Court handed down in *Ross v. RagingWire Telecommunications Inc.* (2008), a case involving a man with a doctor's recommendation to use cannabis who was fired based on the results of a



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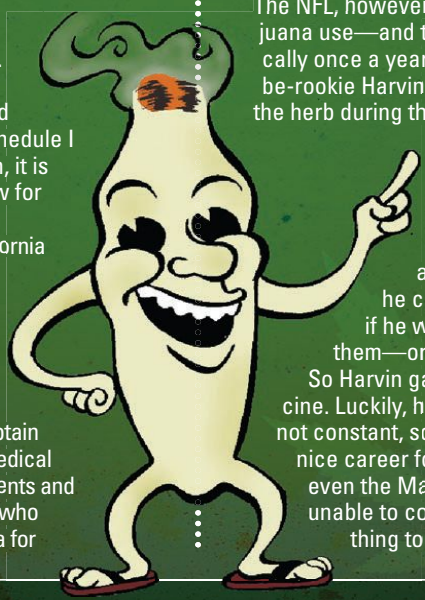
pre-employment drug test. "Nothing in the text or history of the Compassionate Use Act suggests the voters intended the measure to address the respective rights and duties of employers and employees," the court ruled. "Under California law, an employer may require pre-employment drug tests and take illegal drug use into consideration in making employment decisions."

Worse yet, the Drug-Free Workplace Act of 1988 prohibits businesses receiving federal contracts from allowing employees to use cannabis—even as treatment for a medical condition. Many feel such a law is in direct contradiction of the Americans With Disabilities Act (ADA), which prohibits workplace discrimination against persons with disabilities and allows for the doctor-recommended use of controlled substances for medical treatment (i.e., *legal* controlled substances). The ADA is a piece of federal legislation—and cannabis remains a Schedule I substance, and as such, it is illegal under federal law for all purposes.

Remember, even California law does not make cannabis legal in the Golden State—not even for medical use. What the CUA does is "ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes, [and] that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction."

This is what's known as an "affirmative defense" against criminal prosecution. And while withholding or denying employment may be metaphorically criminal persecution—as in, "It's criminal that a business can deny or terminate your employment because of your choice to medicate with this tried-and-true, nontoxic, natural substance!"—it is not actual criminal prosecution.

The National Football League (NFL) offers us a great case in point: Percy Harvin, a wide receiver for the Minnesota Vikings, has suffered from debilitating migraines since he was 10 years old. Fortunately, he found one—only one—substance that effectively relieves them: our good friend cannabis.



The NFL, however, prohibits marijuana use—and tests for it specifically once a year. So when soon-to-be-rookie Harvin tested positive for the herb during the 2009 NFL Combine, he dropped in the draft, with the Vikings choosing him only after sitting him down and making it clear he couldn't medicate if he were to play for them—or anybody.

So Harvin gave up his medicine. Luckily, his migraines are not constant, so he is fashioning a nice career for himself. However, even the Mayo Clinic has been unable to come up with anything to fill the medicinal

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void left by cannabis, and Harvin missed several games in 2010, having to be hospitalized for migraines twice. "The only thing that has slowed [Harvin] is migraines," *Sports Illustrated* wrote during his rookie season. And the only thing that's allowed the migraines to slow him is the NFL's anti-pot policy.

Such a policy doesn't stop plenty of NFL players from treating a variety of conditions and ailments with cannabis, any more than the nation's prohibitionist policies prevent workaday Americans everywhere from seeking relief via perhaps the planet's safest medicine.

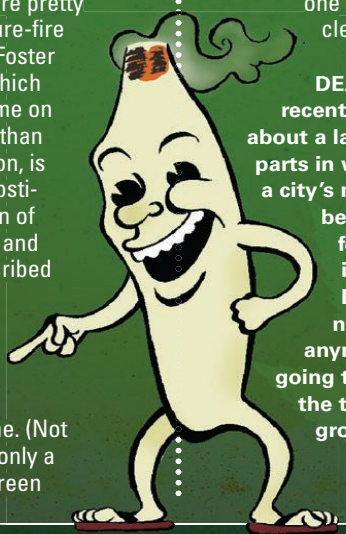
But beware: Safe for your body does not mean safe for your job.

Can you mask your medicine from those pesky drug tests? Well, despite its innocuousness, cannabis stays in your system longer than most substances because the THC molecule is fat-soluble. If you can abstain two months in advance of a test, you're pretty much good to go. (The sure-fire formula opined in David Foster Wallace's *Infinite Jest*, which probably spends more time on the subject of marijuana than any classic piece of fiction, is plus-or-minus 30 days' abstinence while on a regimen of cranberry juice, Calli tea and vinegar in water, as described on page 783. Please note that Little Buddy cannot attest to the results.)

But abstaining from one's medicine is simply not an option for everyone. (Not to mention that typically only a pre-employment drug screen can be seen coming far in advance.) So metabolizing the THC as quickly as possible is your only option—which means flushing your system, which means drinking a lot of water. It's not like drug testers don't know this, of course, so overly clear urine (almost all workplace drug screens are urine tests) is a red flag. Pop some vitamin B-2 to get your color back.

Hey, you're probably not drinking enough water anyway, right? So yes, drink more water. But don't fall prey to the many "guaranteed" drug-test-defeating methods you can find on the Web. When organizations as medpot-friendly and drug-test-condemning as NORML tell you there's no magic bullet, there probably isn't.

Little Buddy's Tip: Make sure a drug screen is not performed on your first pee of the day. Metabolites build up while you sleep, so that first pee is the one most likely to have you cleaning out your desk.



DEAR LITTLE BUDDY: I recently heard something about a lawsuit around these parts in which the courts ruled a city's medpot ordinance to be invalid because the feds hold cannabis to be illegal (the bastards!). Does that mean we're not allowed to medicate anymore? Are the feds going to take me away for the three little clones I'm growing in my garden?

Fretfully yours,
Law-abiding Larry

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LaL: My pal, you heard right. It happened in Long Beach, and it may be a true game-changer for medpot ordinances everywhere.

In August 2011, medpot patients Ryan Pack and Anthony Gayle sued the city of Long Beach after it ordered a medpot collective—of which they were members—to close up shop because its $15,000 ticket into Long Beach's medpot-permit lottery turned out to not be a winner.

While their complaint was common, their legal strategy was unique: They argued that because cannabis is illegal federally, "the city's ordinance, which permits and regulates medical-marijuana collectives rather than merely decriminalizing specific acts, is preempted by federal law." The Second Appellate District Court of Appeal agreed, thus invalidating most of the ordinance.

According to Americans for Safe Access, one of the country's leading medpot-advocacy organizations, several cities and counties across California have used "[the *Pack* decision] as a reason to suspend regulatory ordinances or completely ban local distribution. In its latest crackdown on medical marijuana in California, the U.S. Justice Department has even cited the *Pack* decision as a reason why localities should not adopt distribution licensing ordinances."

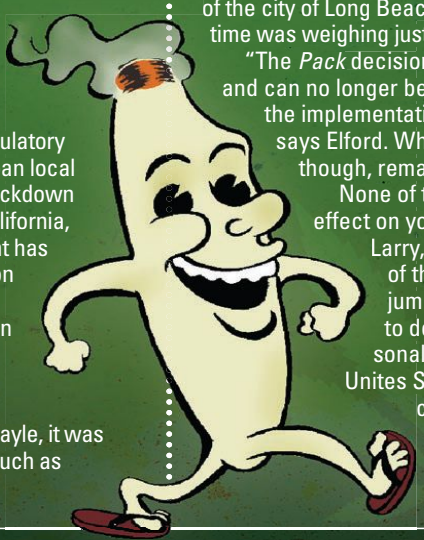
Thus, while the *Pack* decision may have been a legal victory for Pack and Gayle, it was pro-medpot organizations such as the American Civil Liberties Union and the Drug Policy Alliance who in December petitioned the California Supreme Court to review the case, arguing that the decision doesn't require cities to ban medical marijuana at all, but rather limits their ability to require them to apply for expensive city permits in order to operate, as was the case in Long Beach.

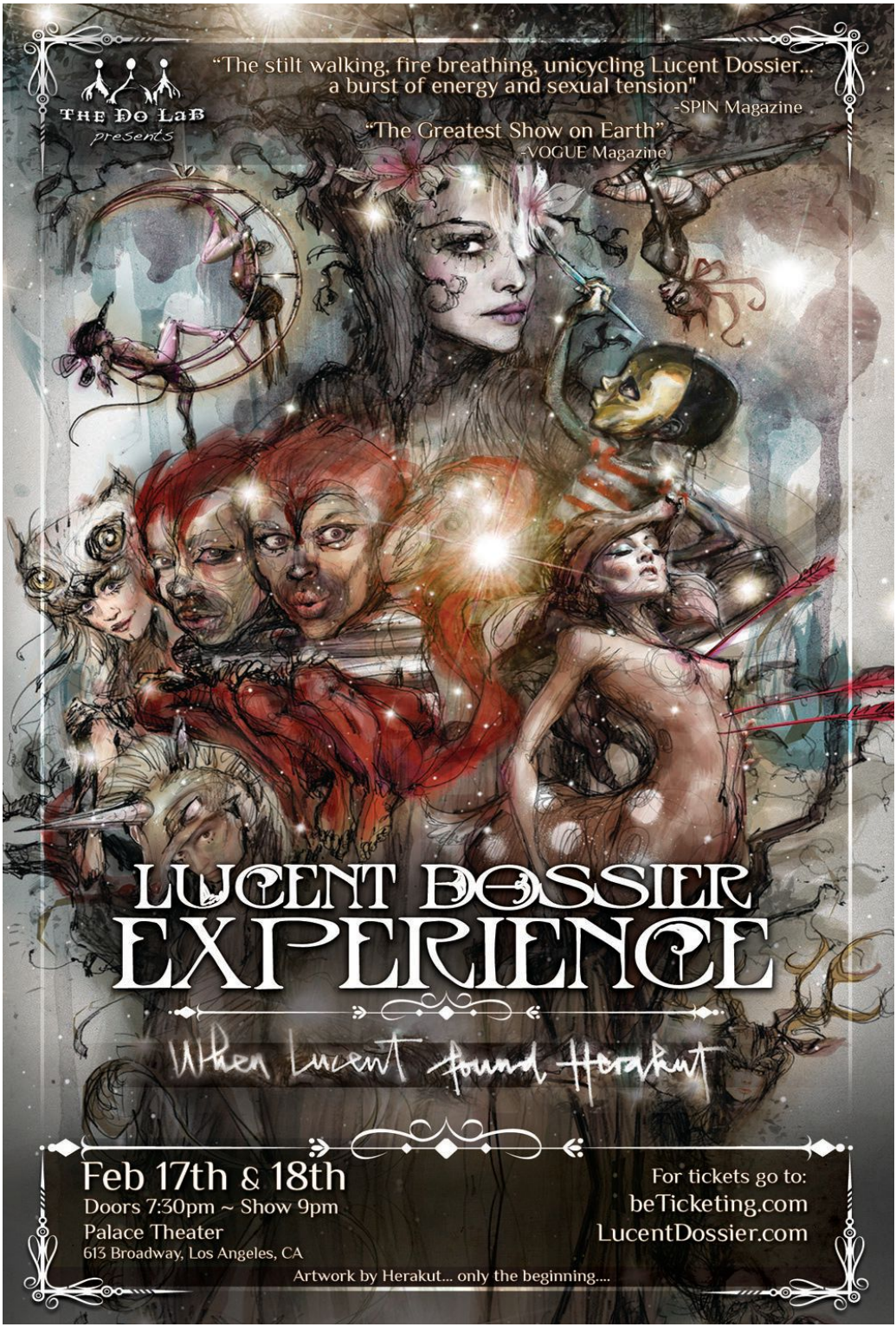
Just before press time, the state Supreme Court agreed to hear the case. But since the wheels of justice sometimes turn *hella* slowly, it may be two years before the High Court hands down a decision.

Joe Elford—yes, the same Americans for Safe Access lawyer guy I invoked in answering Alice's question (*vide supra*)—says the court's review means "that local governments will now be without the means to deny access to medical marijuana for patients in their communities" and that they "have less cover with which to implement or continue such bans," an apparent shot across the bow of the city of Long Beach, which at press time was weighing just such a ban.

"The *Pack* decision is a dead letter and can no longer be used to defy the implementation of state law," says Elford. Whether that's true, though, remains to be seen.

None of this has any effect on your ganja garden, Larry, because none of this legal mumbo-jumbo has anything to do with your personal cultivation: The Unites States says you can't, while the state of California says, "*¡Sí, se puede!*"

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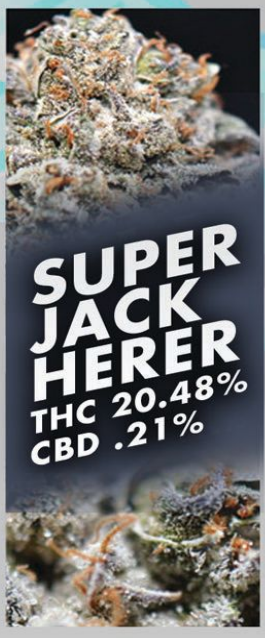

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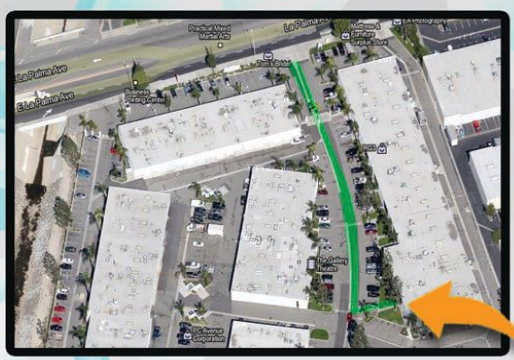

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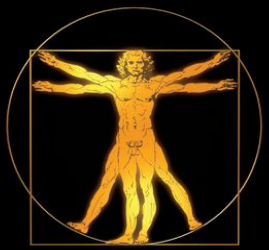

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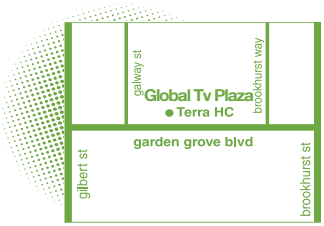

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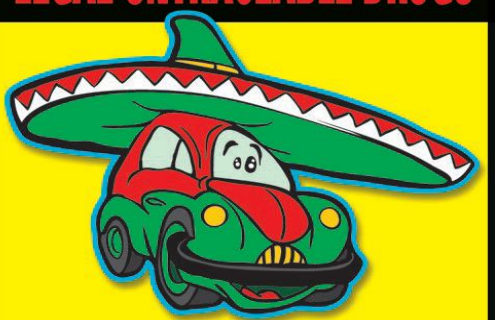

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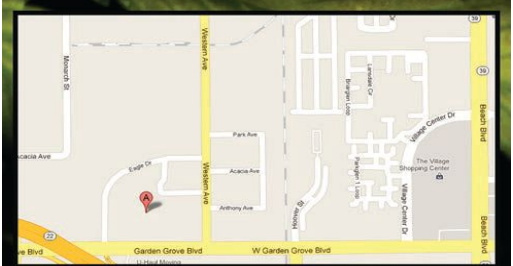

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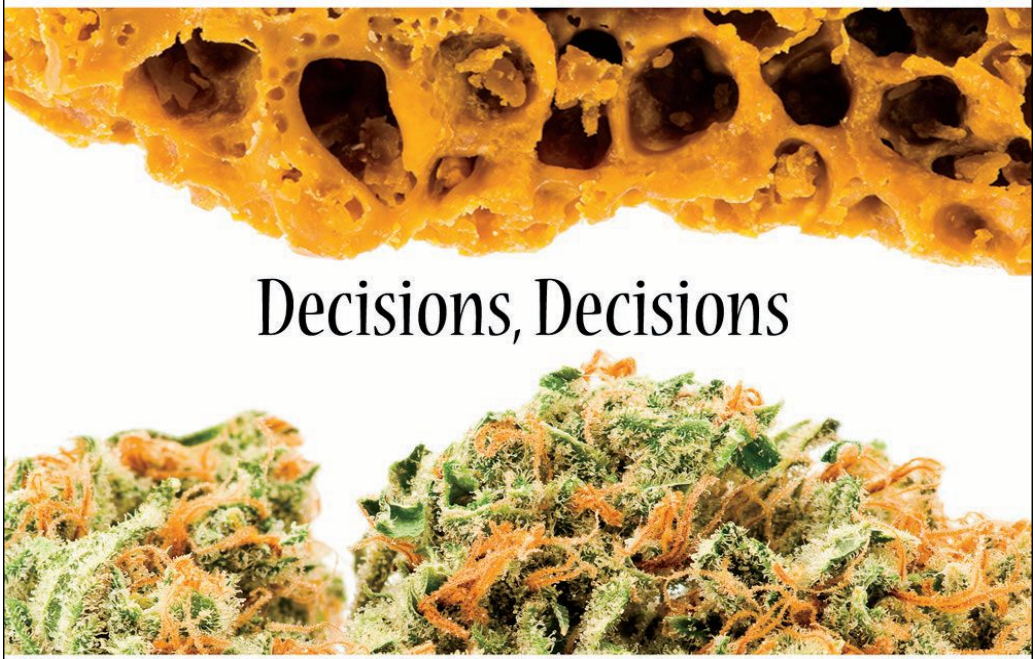

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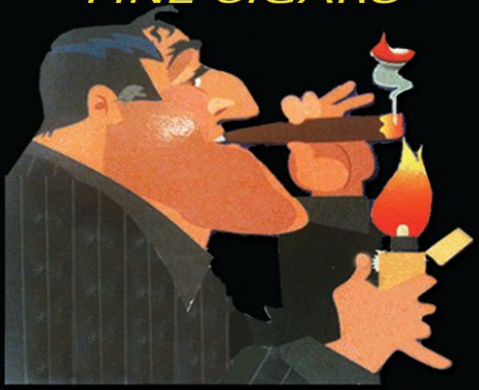

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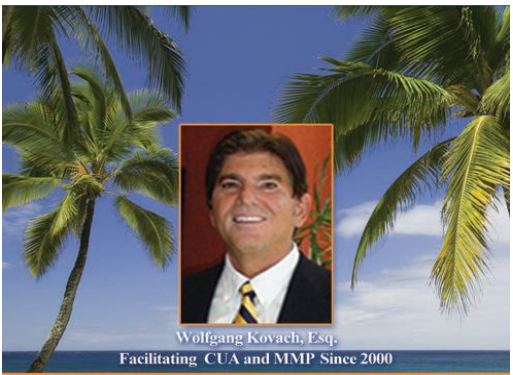

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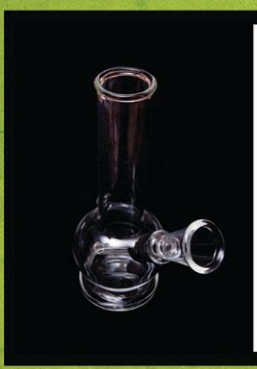

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